

Report to the Secretary on the U.S. Department of Energy's Small Business Programs

Fiscal Year 2001



**Prepared by
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Office of Small & Disadvantaged Business Utilization**

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**Department of Energy
Report to the Secretary on Small Business Programs
Fiscal Year 2001**

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**Department of Energy
Report to the Secretary on Small Business Programs
Fiscal Year 2001**

I. INTRODUCTION

A. Overview

The Department of Energy (*DOE*), Office of Small and Disadvantaged Business Utilization, submits its Report to the Secretary on Small Business Programs for FY 2001 in accordance with memorandum dated December 5, 2000. The report addresses DOE's activities and accomplishments which are in support of small (*SB*), small disadvantaged (*SDB*), 8(a), women-owned (*WOB*), HUBZone and disabled veteran-owned small (*VOSB*) business concerns. All activities are administered in accordance with the Small Business Act, as amended (*15 U.S.C. 631 et seq.*), Section 7102 of the Federal Acquisition Streamlining Act of 1994 (*Public Law 103-355, as amended by Public Law 106-554; 15 U.S.C. 644 note*), the HUBZone Act of 1997 (*Public Law 105-135, Title VI*), and the Veterans Entrepreneurship and Small Business Development Act of 1999 (*Public Law 106-50*).

The Department begins this report by noting the importance of Federal contracting to the small business community. Small businesses play a critical role in national procurement policy, providing goods and services efficiently and representing a diverse set of suppliers to the industrial base. Federal contracting activity has a significant impact on small business development. Firms that do business with the federal government have greater firm employment growth and survival rates.¹ According to Fullenbaum and McNeill, authors of a study on the impact of federal contracting on small businesses, winning a federal government contract greatly increases a firm's chances for survival. Their study further indicated that the dissolution rate of small federal contractors is about half the rate of other small firms in the economy.²

¹Fullenbaum, Richard F. and McNeill, Mariana A. Impact of Federal Procurement on Small Business Development, M&R Associates, Rockville, Maryland, U.S. Small Business Administration, Office of Advocacy, 1999.

²Ibid.

In Fiscal Year (FY) 2001, the United States government procured \$197.2 billion in contracts for goods and services, with \$49.9 billion of these Federal dollars awarded to small businesses . The Department of Energy procured \$18.6 billion (or 8.6 %) of the Federal government procurements.

The Small Business Reauthorization Act of 1997 requires a government-wide small business goal of 23 percent. The process for allocating that goal begins with individual agency goals negotiated with the United States Small Business Administration (SBA). In FY 2001, DOE's small business goal was 5 percent of its total procurement base of \$18.6 billion; or \$928.7 million. DOE achieved \$511.6 million, or 55% percent of its goal of \$928.7 million. Additionally, it achieved a total of \$3.0 billion in subcontracts. (See Exhibit A).

B. Report Structure and Content

This Report to the Secretary reflects the requirements, initiatives, and philosophy set forth by law and the Department for implementing a strategy to integrate small businesses into the programs and activities of the Department. It covers procurement activities of the Department of Energy, including the National Nuclear Security Administration.

Section I: Provides the historical perspective on how the Department is organized and how it spends its dollars. It lays out the challenge to DOE in overcoming a 50-year history (including predecessor agencies) of expending a large portion of its procurement dollars with major prime contractors that operate its facilities.

Section II: Reports Fiscal Year 2001 Small Business Achievements.

Section III: Addresses Secretarial directives and other actions initiated to increase small business prime contracts.

Section IV: Outlines programs and activities that provide opportunities for small businesses.

Section V: Highlights the internal and external partnerships developed to jointly pursue common interests, including providing a forum for small business community issues to be expressed.

Section VI: Summarizes the state of small business and sets forth recommendations for a comprehensive long-term strategy for increasing small business participation at DOE.

C. DOE Structure and Procurement Methodology

The Department is organized along four principal missions: National Security, Energy Resources, Science and Technology, and Environmental Quality. Responsibility for implementing these critical national missions is shared among headquarters program offices, area, field and operations offices, national laboratories and technology centers, and power marketing administrations.

The Department's operations are carried out through a network comprised of facilities and national laboratories operated by major prime contractors under Facility Management Contracts (FMCs). There are several types of FMCs, including management and operating contracts (M&Os), management and integration contracts (M&Is), and environmental restoration and waste management contracts (ERMCs). The FMC contracts are generally awarded to large businesses, educational institution and non-profit organizations. (See Exhibit B) Due to the unique role and vast responsibility of the FMCs, which is unlike any other operation in federal government, nearly 80 percent of departmental funding is expended with these contractors.

II. SMALL BUSINESS ACHIEVEMENT

In FY 2001, the Department awarded \$3.5 billion in prime and subcontract awards. Additionally, the Department provided financial assistance and collaborative research and development awards to small business and minority communities. The economic impact of these awards totaled \$4.0 billion as depicted on the following chart.

**Department of Energy Economic Impact of
Assistance to Small Business in FY 2001**
(Dollars in Thousands)

Activity/Program	Value
Small Business Contracts	\$ 511,645
Small Business Subcontracts	\$ 3,030,376
Small Business Innovation Research Program (SBIR)	\$ 87,317
Small Business Technology Transfer Program (STTR)	\$ 3,985
Inventions and Innovation Program	\$ 3,155
National Industrial Competitiveness Through Energy, Environment, and Economics (NICE3)	\$ 4,000
Cooperative Research & Development Agreements (CRADAs)	\$ 15,071
Grants to Minority Educational Institutions	\$ 43,175
Bank Deposit Financial Assistance Program <i>(Deposits to Minority Banks for loans to small businesses)</i>	\$ 222,100
Total	\$ 3,920,824

The Department achieved prime contract awards of \$511.6 million, which is an increase of \$25 million in obligations over FY 2000 achievement. This amount reflects 55 percent of the Department's \$928.7 small business goal. Prime contracting achievement within specific categories include: SDB, (8(a), and other) of \$233.9 million; Women Owned Business of \$67.9 million; HUBZone of \$11.9 million; and Service Disabled Veterans of \$1.3 million.

The Department fell short of achieving its small business prime contracting goal for two basic reasons:

- (1) the practice of awarding one prime contract for the operation of each major facilities which limits the ability of small businesses to bid as prime contractors;
- (2) the practice of awarding multi-year service contracts which does not provide the ability to make contract award changes annually. As an example, the limitation of new Non-Facility Management Contract (Non-FMC) awards can be seen in Exhibit C. Of the \$3.8 billion budgeted, only \$438.5 million was available for new contracts because \$3.4 billion was already obligated in multi-year contracts.

III. DIRECTIVES AND INITIATIVES

From 1991 through 1999, the Department was authorized by the Office of Management and Budget, Office of Federal Procurement Policy (OFPP), to report its small business subcontracting achievement by M&Os, as prime contracts. In November of 1999, the Office of Federal Procurement Policy (OFPP), Office of Management and Budget, advised the Department that small business awards made by its FMCs could no longer be reported as prime contracts. Both the Senate and House Committees on Small Business have supported the change in reporting and have directed the Department to increase its prime contracts to small businesses.

In order to increase small business prime contracting and enhance the overall small business program, the Department undertook several initiatives designed to establish long-term policies to incrementally increase small business awards over a multi-year cycle. The initiatives include:

Initiatives

- Development of Annual Multi-Year Small Business Plans– On December 5, 2000, the Secretary of Energy directed each departmental element to

develop annual multi-year small business plans that reflect the element's goals for increasing prime contracts with small business concerns. These element plans are used for developing the Department's overall small business goals.

- Establishment of a FY 2001 Small Business Prime Contract Goal of 5 Percent and Preparation of Small Business Plans—On January 19, 2001, the Deputy Secretary extended the 5 percent small business prime contract goal which originally was assigned by the SBA in FY 2000. The Deputy Secretary also provided guidance on submission of the multi-year small business plans.
- Meetings with Executive Councils and Program Elements— To ensure “buy-in” for small business goals and obtain collective participation of departmental elements, the OSDBU Director met regularly with the Department's “Chief Operating Officer Council (COO Council).” The COO Council was comprised of senior executives representing departmental elements. The OSDBU also briefed others, such as the Field Management Council, Laboratory Directors, Field Managers, and assistant secretarial offices.
- Establishment of a Small Business Committee— The Small Business Committee, consisting of assistant secretarial officers and FMC executives, was established in FY 2000 by the Secretary of Energy. The OSDBU and the Office of Procurement and Assistance Management were charged with oversight of the Small Business Committee, and provided the forum for developing initiatives to increase small business prime contracts and for receiving input from participating offices. The Committee met in July of 2001 and addressed “barriers” hindering small firms from doing business with the Department, e.g., security clearances.
- Review of Expiring FMCs— The Director, Office of Procurement and Assistance Management, conducts reviews on expiring FMCs to identify potential small business breakout or teaming opportunities.

- OSDBU/Procurement Meetings–The Director and OSDBU meet regularly to discuss potential opportunities at FMCs. The results of the reviews are addressed in “Special Initiatives.”
- Preparation of Strategic Plan for the Utilization of Small Disadvantaged and Women-owned Businesses– In compliance with Executive Order 13170, the Department developed a Strategic Plan for utilizing SDBs and WOBs. The plan outlined strategies to enhance contracting opportunities for SDBs and WOBs, including seeking additional contracting opportunities for the target groups through the small business plan initiative, procurement tools and guidance, training and outreach, and the Mentor-Protégé Program.
 - Savannah River Technology Center– In our efforts to set-aside a substantial portion of a large contract for small business participation, DOE undertook the bold step of selecting a laboratory that supports the Westinghouse Savannah River Company site. The selected laboratory, the Savannah River Technology Center, located in Aiken, South Carolina, is a highly technical environmental and defense laboratory. The contract value is approximately \$120 Million per year. Although the laboratory is a separate entity, it was managed by Westinghouse. The laboratory contract was proposed for the SBA Mentor-Protégé–Joint Venture Program because it would allow an 8(a) firm(s) to receive a prime contract and enable the 8(a) firm to participate in a mentoring arrangement. The Westinghouse contract was expiring and it agreed to consider a mentoring arrangement for the laboratory. OSDBU and SBA visited the site to become more informed about the work performed at the laboratory. Subsequently, the laboratory contract was determined to be unsuitable as SBA requires the 8(a) firm to perform a significant portion of the work and the Department did not feel that a small business could, at the onset, perform a significant portion of the work. The Department recommended that the 8(a) firm shadow the mentor in managing the laboratory and assume the management role when

it was able to do so. The Department has proposed to SBA that it provide flexibility in its “Mentor-Protégé-Joint Venture Program” in order to apply it to future departmental requirements considered for small business participation.

- Strategic Petroleum Reserve–The FMC for the Strategic Petroleum Reserve in New Orleans, Louisiana expires in FY 2003. DynMcDermott currently operates the facility at the reserve. The contract totals approximately \$140 million a year for five years. The major maintenance construction portion totals \$55 million over the five-year period. DOE has begun reviewing the tasks involved in managing the project, and identifying small business firms that are likely to have an interest in performing the requirement. Since a portion of the contract at the reserve involves major maintenance construction, this portion of the contract is being considered for conversion to an 8(a) or small business set-aside.
- < Mentor-Protégé Provision in Solicitations– The Department began the process for institutionalizing the use of a solicitation provision which will require offerors on major FMC procurements to set forth the small businesses who will be either protégés or primary participants on the offeror’s management team. This process will become a factor in the selection of the winning offeror. The extent of such participation, in terms of work to be performed, amount and schedule of the contract, and the protégé relationship to the prime contractor, will be a part of the evaluations.

IV. PROGRAMS AND OUTREACH ACTIVITIES

A. Programs

- The Mentor-Protégé Program–This program is popular within the small business community because it creates an environment which encourages learning for the small businesses in energy-related and technical areas. The program establishes partnerships between a major

contractor, known as a mentor and a small business, known as a protégé. The Department is exploring new incentives for the mentors in order to ensure the availability of mentors. The Department currently has 19 Mentor-Protégé Program agreements.

- The 8(a) Pilot Program—This program was initiated in FY 1991. The program mimics the SBA-8(a) Program by authorizing the Department's prime contractors to make subcontract awards to 8(a) firms non-competitively up to \$3 Million. The purpose of initiating such a program was to: 1) seek additional procurement support for 8(a) businesses and 2) to obtain prime contract credit for the substantial amount of subcontracts awarded to 8(a) certified small disadvantaged businesses. At the end of its first year in operation, subcontracts to 8(a) firms totaled \$167,000. During the 10-year program duration, subcontracts awarded to 8(a) firms under the program increased to its highest achievement of \$147.9 Million in FY 2001.
- The Forecast of Contracting and Subcontracting Opportunities is published semi-annually on the OSDDBU web page. The FY 2001 forecast listed more than 800 contracting and subcontracting opportunities which are available for small business participation with the Department and its FMCs. Small businesses can access the forecast at: www.hr.doe.gov/ed/osdbu/osdbu.html, click on "Forecast of Opportunities."
- The Small Business Innovation Research Program (SBIR)—The SBIR is conducted by the Office of Science and supports small businesses with strong research capabilities in science or engineering areas critical to departmental missions. The SBIR Program provides grants for research. In FY 2001, the Department selected 28 states to receive Phase I SBIR grants up to \$100,000 each for research for energy, environmental and science missions. The Department selected 215 SBIR projects from 901 applications submitted in response to a program solicitation that contained

45 technical topics covering biological and environmental research, fossil energy, energy efficiency, computational and technology research, and environmental management. Once Phase I is completed successfully, the companies may apply for Phase II follow-on grants of up to \$750,000 to further develop their technology. A list of the companies and projects is available at: <http://sbir.er.doe.gov/sbir>.

- The Small Business Technology Transfer Program (STTR)—The STTR is also conducted by the Office of Science and supports small businesses with strong research capabilities, and issues grants that involve a substantial cooperative research collaboration between a small business and a non-profit research institution. In FY 2001, the Department selected 104 projects for Phase II awards under its SBIR and STTR programs. The projects selected cover a broad spectrum of energy-related research and development in the areas of fossil, nuclear, and renewable energy; energy efficiency; and basic energy sciences. STTR Phase II awards can be accessed at: <http://sbir.er.doe.gov/sbir>.
- The Inventions and Innovations Program—This program is conducted by the Office of Energy Efficiency and Renewable Energy. It provides grants and other technical guidance and commercialization assistance to individual inventors and small businesses that are developing energy-saving technologies. The program provides financial assistance in the form of grants at two levels—up to \$40,000 or up to \$200,000, depending on the stage of development. The grants are awarded for early development and technical performance of innovative ideas and inventions. Technologies within the areas of industry, power, transportation, or buildings that have significant energy savings impact and future commercial market potential are eligible. The solicitation in FY 2001 generated 181 applications and 18 projects that were awarded grants. Examples of projects funded under the program that later achieved commercialization are: 1) Aluminum Roofing System; 2) Meta-Lax Stress Relief Equipment; and 3) High-Efficiency Direct-Contact Water Heater.

- The Natural Gas Market Access Program—This program is conducted by the Office of Fossil Energy and encourages small and small disadvantaged businesses to enter the energy marketplace with emphasis on oil and gas. The program works to remove or circumvent obstacles blocking small business access to oil and gas markets, identifies opportunities for small businesses in this market, and develops procedures to assist small businesses in taking advantage of these opportunities. The program consists of workshops, conferences and networking opportunities for small and small disadvantaged businesses in the natural gas industry; it supports the efforts of small businesses to locate natural gas suppliers; working with banks and other financial institutions to make capital available to these businesses, and sponsoring the DOE Natural Gas Market Access Program Roundtable.

On February 28, 2001, the Gas Subcommittee of the National Association of Regulatory Commissioners (NARUC) passed a resolution approving creation of a NARUC/Department of Energy Joint Energy Partnership. The Partnership serves as a liaison between state public utility commissions and the minority business community.

- The Minority Bank Financial Assistance Program—This program operates within the Office of Minority Economic Impact, within the Office of Economic Impact and Diversity, and utilizes the Petroleum Pricing Violation Escrow Fund (PPVEF) to provide minority financial institutions with a stable deposit base. The program utilizes large, established banks, called Administrative Financial Institutions (AFIs) to carry out the administrative process of channeling PPVEF funds to minority financial institutions. In FY 2001, DOE invested \$222.1 Million in over 106 minority financial institutions.

B. Outreach Activities

- T MED Week, Washington, DC, or Minority Enterprise Development Week, sponsored by the U.S. Department of Commerce, Minority

Business Development Agency, is an annual event in which more than 700 small disadvantaged businesses typically participate in the Washington, DC observance. The Department counseled small businesses at the MED Week conference held October 2000.

- T Business Women's Network Leaders Summit, Washington, DC was attended by the OSDDBU Women's Program Coordinator. The summit was held October 2000. The Summit was attended by more than 900 government and industry representatives, as well as women-owned businesses. The Coordinator counseled several women-owned businesses in doing business with the Department.
- T OSDBU Directors' Annual Small Business Conference, Upper Marlboro, MD is the region's most popular conference among small businesses, with more than 1200 attendees in FY 2001. OSDDBU and the Office of Procurement and Assistance Management counseled firms at the April 2001 conference.
- T Small Business Week Procurement Fair, Washington, DC is an annual event in which DOE provides information on contracting and subcontracting opportunities and actively participates by joining with other DOE offices and organizations, e.g. the Office of Procurement and Assistance Management, to provide presentations to small businesses on topics of interest. Small Business Week was held in May 2001.
- T Second Annual Department of Energy Small Business Conference, Las Vegas, NV was a huge success with more than 1,000 persons attending the conference. Feedback from small businesses was overwhelming favorable. The conference was held in June 2001.
- T Federal Procurement Conference, sponsored by Congressman Jim Moran of VA, was attended by approximately 900 firms with more than 500 with expertise in the Information Technology area. The conference was held July 2001.

- T Federal Procurement Conference, sponsored by Congressman Thomas Davis of VA, was attended by over 1000 small businesses with expertise in various disciplines. The conference was held September 2001.
- T Congressional Black Caucus Week, Washington, DC—OSDBU attended the caucus and participated in the procurement fair and workshops. The Oak Ridge National Laboratory and the BWXT-Y12 Plant of Oak Ridge, Tennessee counseled firms at the headquarters booth on doing business with the Department. The procurement fair was held in September 2001.
- T Hispanic Heritage Month Forum, Washington, DC, was held in September 2001. OSDBU attended the forum and counseled firms on how to do business with the Department.

V. PARTNERSHIPS

In order to improve its outreach and target small business, the Department entered into several agreements with small business trade associations and other federal agencies. These agreements, Memoranda of Understanding (MOUs), resulted in several partnerships as listed below:

- U.S. Small Business Administration (SBA)—This MOU seeks to make contracting easier with 8(a) firms. The “Partnership Agreement,” as it is referred to, provides flexibility in executing contracts with 8(a) firms, by delegating certain authorities to the Department.
- National Indian Business Association (NIBA)—The MOU with NIBA seeks to promote business and employment opportunities with Native American businesses, tribally-owned and controlled businesses, and tribal members. The Department supports NIBA and other Native American organizations and businesses by participating in workshops and conferences.

- Women-Owned Business Associations—This MOU seeks to maximize participation of women-owned businesses in energy-related areas in contracting, financial assistance and innovative science and technology programs. The Women-Owned Business Associations assisted the Department in outreach to women-owned businesses for the “Second Annual Small Business Conference,” held in Las Vegas, NV.
- Minority Business Alliance—The MOU with the Alliance, formerly known as the Minority Business Summit Committee, paired the Department and the trade association to work toward maximizing opportunities for minority business concerns in contracting, financial assistance, and innovative technology programs. The Alliance assisted the Department in providing outreach to the minority-owned business community to assure participation in the Department’s “Second Annual Small Business Conference.”

VI. FINDINGS AND RECOMMENDATIONS

There are over 22.4 million small businesses, which represent more than 99 percent of all employers. These small businesses employ 51 percent of private-sector workers, and provide two-thirds to three-quarters of the net new jobs in the United States.³

On October 6, 2000, the President signed Executive Order 13170 “Increasing Opportunities and Access for Disadvantaged Businesses.” (See Exhibit D) The Order directed Executive departments and agencies to take affirmative steps to increase purchases from disadvantaged businesses including Small Disadvantaged Businesses

³Source: U.S. Department of Commerce, Bureau of the Census; U.S. Department of Labor, Bureau of Labor Statistics; U.S. Small Business Administration, Office of Advocacy-funded study by Joel Popkin & Company; U.S. Department of Commerce, International Trade Administration; U.S. Small Business Administration, Office of Government Contracting.

(SDBs), participants from the SBA Section 8(a) Business Development programs, and Minority Business Enterprises (MBEs). The Department has traditionally awarded approximately 3% of its total procurement dollars to small business.

On November 16, 2000, a Memorandum was received from the SBA informing DOE that all departments are required to develop a long-term comprehensive plan to be submitted to OMB within 90 days. The Memorandum further directed that the Plan should include actions that the agency will take over the long term to increase access and contract opportunities for disadvantaged businesses. SBA offered to work together to develop guidance to implement the Order and advised that they would be conducting semi-annual evaluations of the progress made by individual agencies in achieving their goals for contracting and subcontracting with disadvantaged businesses. (Exhibit D)

To fully appreciate the small business challenges at the Department one must understand the nature of and rationale for how DOE has structured its operations.

The purpose for structuring its operations through Facility Management Contracts (FMCs) was to allow the Department to operate and manage various facilities and laboratories expeditiously and economically. This process has allowed the Department to utilize the capabilities of industry and academia to the fullest extent and to reduce its federal workforce. These FMC contracts are generally held by large firms. However, these firms subcontract approximately 20 percent of their work. Of that amount, 47 percent is awarded to small businesses. So, while the prime contract may be with a large business, small business does benefit substantially through the subcontracting activity. (Exhibit A) The Department encourages the utilization of small businesses as subcontractors and is working on a plan to improve its prime contracting activities with small businesses.

Recommendations:

Based on the department's commitment to increase its prime contracting with small business, the following actions are being recommended:

1. Review each FMC contract for small business participation;

2. Consider converting FMC small business subcontracts to prime contracts;
3. Develop multi-year small business plans by element;
4. Utilize Mentor-Protégé Program guidelines for solicitations and contracts with large businesses;
5. Increase outreach to small businesses through workshops and conferences;
6. Develop a database of small businesses that can perform facility management contracts;
7. Publish informational materials for small business consumption;
8. Communicate regularly with Congress and SBA regarding progress toward goals.

VII. APPENDIX

Exhibit A–FY 2001 Small Business Achievements

Exhibit B–FY 2001 Facility Management Contracts (FMCs)

Exhibit C–FY 2001 Prime Contracting Opportunities

Exhibit D–(1) Executive Order 13170–Increasing Opportunities and Access for Disadvantaged Businesses–October 6, 2000 and (2) Memorandum from the Small Business Administration advising of the Office of Management and Budget requirement to develop a long-term comprehensive plan for Executive Order 13170, November 16, 2000

FY 2001 SMALL BUSINESS ACHIEVEMENTS
(Dollars in Thousands)

	FY 2001 Goals		FY 2001 Achievement*
PRIME CONTRACTING			
Small Business	928,683	5.0%**	511,648
Small Disadvantaged Business [Including 8(a) Business]	278,605	1.5%	233,948
Women-owned Business	92,868	0.5%	67,892
HUBZone Business	18,574	0.1%	11,866
Service-Disabled Veteran Business	9,287	0.05%	1,327
SUBCONTRACTING BASE	\$6,409,376		\$6,409,376
Small Business	2,948,313	46.0%	3,030,376
Small Disadvantaged Business	769,125	12.0%	633,918
Women-owned Business	320,469	5.0%	501,417
HUBZone Business	192,281	3.0%	45,859
Service-Disabled Veteran Business	192,281	3.0%	182
Total Prime and Subcontracting	\$3,876,996	20.9%	\$3,542,024
			91.4%

HUBZone—Historically Underutilized Business Zone

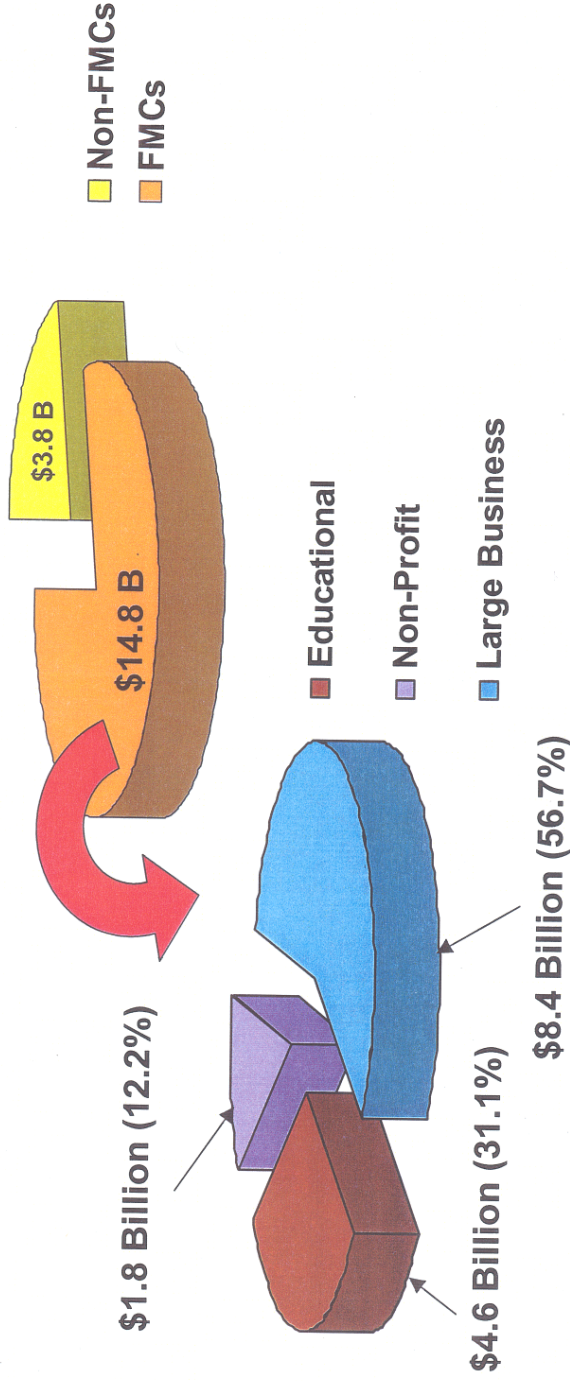
*FY 2001 achievement based on percent of goal attainment.

**Small Business Administration assigned goal.

FY 2001

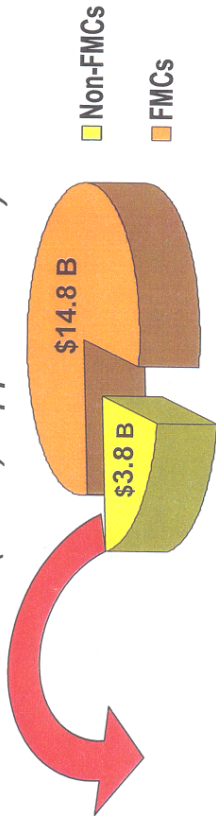
Facility Management Contracts (FMCs)

Large Business, Educational and Non-Profit FMCs



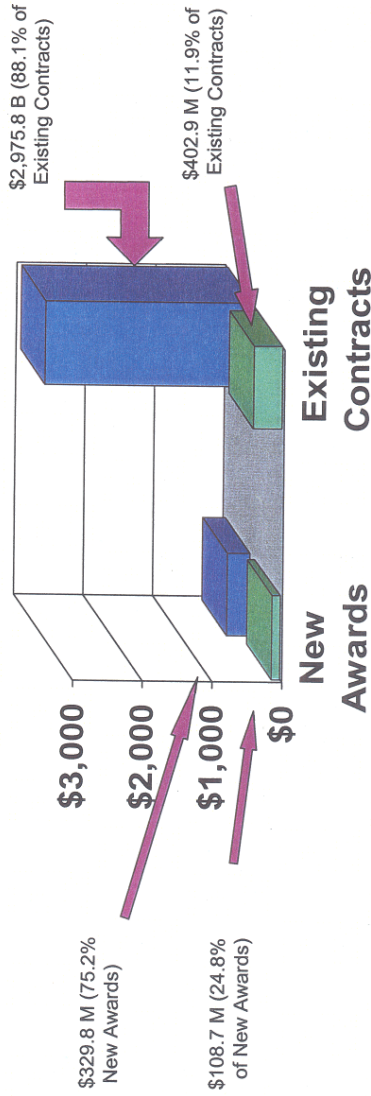
FY 2001 Prime Contracting Opportunities

(Non-Facility Management Contract (FMC) Opportunities)



Total New Awards
\$438.5 Million

Total Existing Contracts
\$3,378.7 Billion



■ Small Business ■ Other Business

Exhibit C

(\$ in Millions)



Federal Register

**Thursday,
October 12, 2000**

Part VII

The President

**Executive Order 13170—Increasing
Opportunities and Access for
Disadvantaged Businesses**

Presidential Documents

Title 3—**Executive Order 13170 of October 6, 2000****The President****Increasing Opportunities and Access for Disadvantaged Businesses**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Small Business Act (15 U.S.C. 631 *et seq.*), section 7102 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355, 15 U.S.C. 644 note), the Office of Federal Procurement Policy Act (41 U.S.C. 403 *et seq.*), Executive Order 11625, and to provide for increased access for disadvantaged businesses to Federal contracting opportunities, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the executive branch to ensure non-discrimination in Federal procurement opportunities for businesses in the Small Disadvantaged Business Program (SDBs), businesses in the section 8(a) Business Development program of the Small Business Administration (8(a)s), and Minority Business Enterprises (MBEs) as defined in section 6 of Executive Order 11625, of October 13, 1971, and to take affirmative action to ensure inclusion of these businesses in Federal contracting. These businesses are of vital importance to job growth and the economic strength of the United States but have faced historic exclusion and underutilization in Federal procurement. All agencies within the executive branch with procurement authority are required to take all necessary steps, as permitted by law, to increase contracting between the Federal Government and SDBs, 8(a)s, and MBEs.

Sec. 2. Responsibilities of Executive Departments and Agencies with Procurement Authority. The head of each executive department and agency shall carry out the terms of this order and shall designate, where appropriate, his or her Deputy Secretary or equivalent to implement the terms of this order.

(a) Each department and agency with procurement authority shall:

(i) aggressively seek to ensure that 8(a)s, SDBs, and MBEs are aware of future prime contracting opportunities through wide dissemination of contract announcements, including sources likely to reach 8(a)s, SDBs, other small businesses, and MBEs. Each department and agency shall use all available forms of communication to implement this provision, including the Internet, speciality press, and trade press;

(ii) work with the Small Business Administration (SBA) to ensure that information regarding sole source contracts awarded through the section 8(a) program receives the widest dissemination possible to 8(a)s;

(iii) ensure that the price evaluation preference programs authorized by the Federal Acquisition Streamlining Act of 1994 are used to the maximum extent permitted by law in areas of economic activity in which SDBs have historically been underused;

(iv) aggressively use the firms in the section 8(a) program, particularly in the developmental stage of the program, so that these firms have an opportunity to overcome artificial barriers to Federal contracting and gain access to the Federal procurement arena;

(v) ensure that department and agency heads take all reasonable steps so that prime contractors meet or exceed Federal subcontracting goals, and enforce subcontracting commitments as required by the Small Business Act (15 U.S.C. 637(d)) and other related laws. In particular, they shall

ensure that prime contractors actively solicit bids for subcontracting opportunities from 8(a)s and SDBs, and fulfill their SDB and section 8(d) subcontracting obligations. Enforcement of SDB subcontracting plan commitments shall include assessments of liquidated damages, where appropriate, pursuant to applicable contract clauses;

(vi) encourage the establishment of business-to-business mentoring and teaming relationships, including the implementation of Mentor-Protege programs, to foster the development of the technical and managerial capabilities of 8(a)s and SDBs and to facilitate long-term business relationships;

(vii) offer information, training, and technical assistance programs for 8(a)s and SDBs including, where appropriate, Government acquisition forecasts in order to assist 8(a)s and SDBs in developing their products, skills, business planning practices, and marketing techniques;

(viii) train program and procurement officials regarding the policy of including 8(a)s and SDBs in Federal procurement. This includes prescribing procedures to ensure that acquisition planners, to the maximum extent practicable, structure acquisitions to facilitate competition by SDBs and 8(a)s, including their participation in the competition of multiple award requirements;

(ix) provide the information required by the Department of Commerce when it requests data to develop the benchmarks used in the price evaluation preference programs authorized by the Federal Acquisition Streamlining Act of 1994;

(x) ensure that Directors of Offices of Small and Disadvantaged Business Utilization carry out their responsibilities to maximize the participation of 8(a)s and SDBs in Federal procurement and, in particular, ensure that the Directors report directly to the head of each department or agency as required by law; and

(xi) as required by law, establish with the Small Business Administration small business goals to ensure that the government-wide goal for participation of small business concerns is not less than 23 percent of Federal prime contracts. Where feasible and consistent with the effective and efficient performance of its mission, each agency shall establish a goal of achieving a participation rate for SDBs of not less than 5 percent of the total value of prime contract awards for each fiscal year and of not less than 5 percent of the total value of subcontract awards for each year. Each agency shall also establish a goal for awards made to 8(a) firms pursuant to section 8(a) of the Small Business Act. These goals shall be considered the minimum goals and every effort shall be taken to exceed these goals wherever feasible.

(b) Each department and agency with procurement authority shall:

(i) develop a long-term comprehensive plan to implement the requirements of section 2(a) of this order and submit this plan to the Director of the Office of Management and Budget (OMB) within 90 days of the date of this order. The Director of OMB shall review each plan and report to the President on the sufficiency of each plan to carry out the terms of this order; and

(ii) annually, by April 30 each year, assess its efforts and the results of those efforts to increase utilization of 8(a)s, SDBs, and MBEs as both prime contractors and subcontractors and report on those efforts to the President through the Director of OMB, who shall review the evaluations made of the agency assessments by the Small Business Administration.

Sec. 3. Responsibilities of the Small Business Administration. The Administrator of the SBA shall:

(a) evaluate on a semi-annual basis, using the Federal Procurement Data System (FPDS), the achievement of government-wide prime and subcontract goals and the actual prime and subcontract awards to 8(a)s and SDBs for each department and agency. The OMB shall review SBA's evaluation;

(b) ensure that Procurement Center Representatives receive adequate training regarding the section 8(a) and SDB programs and that they consistently and aggressively seek opportunities for maximizing the use of 8(a)s and SDBs in department and agency procurements; and

(c) ensure that each department and agency's small and disadvantaged business procurement goals as well as the amount of procurement of each department and agency with 8(a)s, SDBs, and MBEs is publicly available in an easily accessible and understandable format such as through publication on the Internet.

Sec. 4. *Federal Advertising.* Each department or agency that contracts with businesses to develop advertising for the department or agency or to broadcast Federal advertising shall take an aggressive role in ensuring substantial minority-owned entities' participation, including 8(a), SDB, and MBE, in Federal advertising-related procurements. Each department and agency shall ensure that all creation, placement, and transmission of Federal advertising is fully reflective of the Nation's diversity. To achieve this diversity, special attention shall be given to ensure placement in publications and television and radio stations that reach specific ethnic and racial audiences. Each department and agency shall ensure that payment for Federal advertising is commensurate with fair market rates in the relevant market. Each department and agency shall structure advertising contracts as commercial acquisitions consistent with part 12 of the Federal Acquisition Regulation processes and paperwork to enhance participation by 8(a)s, SDBs, and MBEs.

Sec. 5. *Information Technology.* Each department and agency shall aggressively seek to ensure substantial 8(a), SDB, and MBE participation in procurements for and related to information technology, including procurements in the telecommunications industry. In so doing, the Chief Information Officer in each department and agency shall coordinate with procurement officials to implement this section.

Sec. 6. *General Services Administration Schedules.* The SBA and the General Services Administration (GSA) shall act promptly to expand inclusion of 8(a)s and SDBs on GSA Schedules, and provide greater opportunities for 8(a) and SDB participation in orders under such schedules. The GSA should ensure that procurement and program officials at all levels that use GSA Schedules aggressively seek to utilize the Schedule contracts of 8(a)s and SDBs. The GSA shall allow agencies ordering from designated 8(a) firms under the Multiple Award Schedule to count those orders toward their 8(a) procurement goals.

Sec. 7. *Bundling Contracts.* To the extent permitted by law, departments and agencies must submit to the SBA for review any contracts that are proposed to be bundled. The determination of the SBA with regard to the appropriateness of bundling in each instance must be carefully reviewed by the department or agency head, or his or her designee, and must be given due consideration. If there is an unresolvable conflict, then the SBA or the department or agency can seek assistance from the OMB.

Sec. 8. *Awards Program.* The Secretary of Commerce and the Administrator of the SBA shall jointly undertake a feasibility study to determine the appropriateness of an awards program for executive departments and agencies who best exemplify the letter and intent of this order in increasing opportunities for 8(a)s, SDBs, and MBEs in Federal procurement. Such study shall be presented to the President within 90 days of the date of this order.

Sec. 9. *Applicability.* Independent agencies are requested to comply with the provisions of this order.

Sec. 10. *Administration, Enforcement, and Judicial Review.*

(a) This order shall be carried out to the extent permitted by law and consistent with the Administration's priorities and appropriations.

(b) This order is not intended and should not be construed to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees.

A handwritten signature in black ink, reading "William J. Clinton". The signature is written in a cursive style with a large, stylized "W" and "C".

THE WHITE HOUSE,
October 6, 2000.

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D C 20503

November 16, 2000

THE DIRECTOR

01-04

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

FROM:

Jacob J. Lew

Director

Office of Management and Budget

Aida Alvarez

Administrator

U. S. Small Business Administration

SUBJECT:

Executive Order on Increasing Opportunities and Access for
Disadvantaged Businesses

On October 6, 2000, the President signed an Executive Order, "Increasing Opportunities and Access for Disadvantaged Businesses" (attached). The Order directs Executive departments and agencies to take affirmative steps to increase purchases from disadvantaged businesses. These consist of Small Disadvantaged Businesses (SDBs), participants in the U.S. Small Business Administration's (SBA) section 8(a) Business Development program, and Minority Business Enterprises (MBEs).

Section 2 requires the head of each department and agency to designate a senior official, where appropriate, at the Deputy Secretary level or equivalent, to be responsible for implementing the terms of the Order. This section also includes specific actions that agencies must take to increase access and contract opportunities for disadvantaged businesses. To implement the requirements of Section 2(a), each department and agency with procurement authority must develop a long-term comprehensive plan and submit the plan to the Director of the Office of Management and Budget (OMB) within 90 days.

The plan must identify actions that your agency will take over the long term. Accordingly, you should submit a plan covering the next three years that implements each provision of Section 2(a), including milestones for accomplishing each action. You should also include steps that your agency will take to comply with Sections 4 and 5 which are designed to increase participation of disadvantaged businesses in contracts for Federal advertising and information technology. You should submit your plan to the OMB Director by January 6, 2001.

The Order gives SBA responsibility for monitoring and evaluating the progress of each agency in complying with their plan. SBA will evaluate annual reports submitted by each department and agency and submit its evaluations to OMB. SBA also will conduct semi-annual evaluations of the progress made by individual agencies in achieving their goals for contracting and subcontracting with disadvantaged businesses and publish the results of its findings.

We will work together to develop further guidance to implement the Order. If you have questions or need more information regarding your long-term comprehensive plan, please contact Kenneth Oscar, Deputy Administrator (Acting), Office of Federal Procurement Policy, at 202-395-5802. If you have questions or need more information regarding SBA's roles or responsibilities, please contact Kerry Kirkland, Acting Associate Deputy Administrator, Office of Government Contracting and Business Development, at 202-205-6459. Please send the name, e-mail address, and telephone number of your agency's contact within a week to Mike Gerich at mgerich@omb.eop.gov.

Attachment

cc: Agency Senior Procurement Executives
Directors, Office of Small and Disadvantaged Business Utilization